IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4379 OF 2006

Mr. Vishwajeet @ Raju Kishor Shah. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

.....

Mr. N.N. Gavankar for the Applicant.

Mr. Rajesh More, APP for the Respondents.

.....

CORAM : S.C. DHARMADHIKARI,J.

14TH DECEMBER 2006.

P.C. :

1. Heard Shri Gawankar appearing for the Applicant and Shri More, learned A.P.P. for the State. The applicant has been arrested in connection with C.R.No.311/06 registered at Borivali Police Station. The Applicant has been arrested on 30th August 2006. The offences alleged are punishable under Section 420, 465 to 469, 470, 471 r/w. Section 34 of Indian Penal Code. Subsequently, Section 255 to 259 of Indian Penal Code were also incorporated.

2. This submission of Shri Gawankar is that the Applicant had applied for bail during the course of investigation which application was rejected by the learned Metropolitan Magistrate and the Additional

Sessions Judge. Thereafter, he approached this Court. But the said application was withdrawn. In the meanwhile, investigations as far as the present application are complete and charge-sheet is filed. He therefore applied for bail but the learned Additional Sessions Judge had denied the said relief mainly on the ground that the further investigation is in progress and if the applicant is enlarged on bail, it would hamper smooth progress of the same.

3. The learned A.P.P. Shri More submits that the offence alleged are serious. The Applicant has posed himself to be the owner of M/s. Lakasha Housing and Construction Company. He has opened an account bearing No.3787. He applied for loan. He stated that the Company M/s. Weizmann Homes Pvt.Ltd. had allotted flat No.302 to him on the basis of which and documents pertaining to which the loan was sanctioned. The loan amount is Rs.10.00 lacs. He submits that thus, the Company which is owned by the Applicant had applied for loan and the loan was sanctioned in the name of the Applicant himself. At the same time, there were another M/s. Lakasha Housing Construction Company. It belongs to one Sharad N. Teli. He has posed himself as a owner of Land Mark Developers and opened two accounts bearing Nos.3726 and 3701. All these facts had come to notice during the investigation of C.R.No.285/2006. Further investigations are in progress. The documents are not only forged and bogus but have been

executed on fake and counterfeit Government Stamp Paper. The punishment is life imprisonment. In such circumstances, bail should be denied to the applicant.

6. After having perused the application and the annexures thereto so also some of the documents pertaining to the applicant, in the charge-sheet, I am of the view that the learned Judge had denied relief to the Applicant only on the ground that further investigations are in progress. A vital aspect as to where the Applicant got the franking done on the bogus agreement is yet to be investigated. Permission has been obtained from the learned Magistrate to carry out further investigation. The same is in progress. In such circumstances and when the applicant was arrested in another C.R., it would hamper the progress of the investigation. However, at the same time perusal of the statement of the concerned official of the Bank reveals that monthly instalment of the loan are being paid. The Applicant contends that his transaction is genuine. In any event, all documents are seized.

7. The learned Judge himself observed that the Applicant is enlarged on bail in another C.R. The observations made by the learned Judge, prima-facie are not based upon any material. As to how with stringent conditions being imposed, the Applicant would not be available during the course of investigation and

interrogation is not clear to me at all. In my view, the following order would be subserve the ends of justice :-

(i) The Applicant arrested in connection with C.R.No.311 of 2006 registered with Borivali Police Station shall be enlarged on bail in the sum of Rs.50,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that the Applicant shall report to E.O.W. Unit 1, C.I.D., Mumbai for a period of three months twice a week and thereafter, as directed by the Trial Court.

(ii) The Applicant shall surrender his passport to the Economic Offences Wing, C.I.D., Mumbai.

(iii) The Applicant shall not leave Mumbai without prior permission of the Trial Court.

(iv) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigation Officer.

(v) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(vi) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

(ix) Parties to act on an authenticated copy of this order.

(S.C. Dharmadhikari,J.)